

SITE DEVELOPMENT PERMIT

FILE NO.	H18-047
LOCATION OF PROPERTY	South side of Glen Eyrie Avenue, approximately 570 feet westerly of Lincoln Avenue (80 Glen Eyrie Avenue).
ZONING DISTRICT	R-M Multiple Residence Zoning District
GENERAL PLAN DESIGNATION	Mixed Use Neighborhood
PROPOSED USE	H18-047: Site Development Permit to allow the demolition of all existing buildings and structures including four residences, a barn, five garages and an accessory building the removal of one (1) non-ordinance and nine (9) ordinance sized trees, for the construction of three buildings with a total of up to 18 residential units.
ENVIRONMENTAL STATUS	Exempt pursuant to CEQA Guidelines Section 15332 for In-Fill Development Projects
APPLICANT ADDRESS	Dan Askari Khani & Sons, Inc. 3897 El Camino Real Palo Alto, CA
OWNER ADDRESS	Dan Askari Khani & Sons, Inc. 3897 El Camino Real Palo Alto, CA

The Director of Planning, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** H18-047: Site Development Permit to allow the demolition of all existing buildings and structures including four residences, a barn, five garages and an accessory building, the removal of one (1) non-ordinance and nine (9) ordinance sized trees, and the construction of three buildings with a total of up to 18 residential units.
2. **Site Description and Surrounding Uses.** The subject site is located on the south side of Glen Eyrie Avenue, approximately 570 feet westerly of Lincoln Avenue (80 Glen Eyrie Avenue). The site is bounded by multi-family residential apartments to the north and east, to

the south there are multi-family residential apartments and a single family residence, and to the west there is a single-family residence.

3. **General Plan.** The Envision San José 2040 General Plan Land Use/Transportation Diagram designation for the subject site is Mixed Use Neighborhood (MUN).

Density: Up to 30 DU/AC (1 to 3.5 stories)

This designation is applied to areas intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms. Existing neighborhoods with this designation are typically characterized by a prevalence of atypical lot sizes or shapes and a parcel-by-parcel development pattern where small townhouse development may exist adjacent to more traditional single-family development or more intense multi-family development.

This designation should be used to establish new neighborhoods with a cohesive urban form, to provide transition between higher-density and lower-density neighborhoods, or to facilitate new infill development within an existing area that does not have an established cohesive urban character.

Because, within such mixed neighborhoods, the established overall neighborhood density and character is more intense than found in typical single-family detached neighborhoods, it is appropriate to allow for infill development in Mixed Use Neighborhood areas that includes medium density residential uses such as townhouses or stacked flats.

- a. IP-1.1 Use the Envision General Plan Land Use / Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the Envision General Plan. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.

IP-1.3 Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use / Transportation Diagram. Because the Diagram designation identifies the City's long-term planned implementation land use for a property.

Analysis: Consistent with lands that the Mixed Use Designation is applied to, this neighborhood, characteristically, is a mix of densities with a range of housing types. The site is surrounded with a mix of multi-family and single-family uses and is comprised of a mix of one and two-story buildings. This project consists of 18 single-family attached units and is consistent with the very flexible allowable density of up to 30 DU/AC in this designation. The proposed project is approximately 21.2 dwelling units per acre.

- b. IP-1.8 Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements

Analysis: The project utilizes conventional R-M Multiple-Residence Zoning District development standards and is consistent with [Section 20.90.220](#), the Municipal Code Parking Chapter as shown in the zoning section below. Therefore, the project is consistent with this General Plan Policies.

4. **Zoning Regulations.** The project site is located within the R-M Multiple Residence Zoning District (RM). [Section 20.100.610](#) of the City of San José Municipal Code states that a Site Development Permit is required prior to the issuance of any building permit for erection, construction, enlargement, placement or installation of a building or structure on any site.
- a. *Use.* The multiple residence allow for a mix different residential development use, and the project is for 18 attached residential units. Therefore, the use is consistent.
- b. *Development Standards.* The Development Standards are in the table below.

Setbacks and Height:

	Required	Project
Front:	10 feet minimum	10 feet
Left Side, interior:	5 feet minimum	10 feet, 3 inches
Right Side, interior:	5 feet minimum	11 feet 2 inches
Rear	25 feet minimum	22 feet, 11 inches (See exceptions below)
Height	45 feet minimum	40 feet, 5-1/4 inches

Analysis: The project is primarily consistent with setbacks and height as shown in the table above except for the rear setback. While most of the buildings are at 25 feet, 4 inches or greater, pursuant to Municipal Code [Section 20.30.400.D](#), tankless water heaters and power inverters may project horizontally for a distance of not more than two feet into any setback area and the utility closets project 1 foot ten inches, and the utility closets encroach 1 foot 10 inches into the rear setback area.

Pursuant to Municipal Code [Section 20.30.400.I](#), mechanical equipment, including but not limited to, pool equipment and HVAC equipment, must maintain a setback from the side property line a distance equal to that of the side setback. The required side setback is five feet and the air conditioning units are outside of the side setback at approximately 6 feet.

Additionally, pursuant to Municipal Code [Section 20.30.420](#), a balcony may project horizontally for a distance of not more than five feet into the air space above the surface of the ground in the rear setback. The balconies have a rear setback of 23 feet, 1 inch. As identified above, the project is consistent with the height and setbacks.

According to Municipal Code [Section 20.60.230](#), if a building situated or proposed to be situated within a lot has more than two and one-half stories, the side setback established by the provisions of [Section 20.30.200](#) for such lot, if it is an interior lot, shall be increased one foot for each additional story above the second story. The required side setback is 5 feet and the building side setback is 10 feet. Therefore, the project is consistent with this section.

- c. *Parking.* Pursuant to Municipal Code [Section 20.90](#) and Table 20-210 of the San José Municipal Code for parking requirements, 48 parking spaces are required and 48 parking spaces are provided. Four motorcycle parking spaces are required and four are provided. Four guest bicycle parking spaces are required and 6 are provided. Additionally, there are

28 bicycle parking spaces provided within each garage, thereby exceeding the City's required amount of bicycle parking spaces. The bicycle parking spaces will help encourage multi-modal transportation. Also, the project is conditioned to be used only for parking of residential unit vehicles and shall be kept free and clear of all obstructions below.

- d. *Noise.* Pursuant to Municipal Code [Section 20.30.700](#) the Maximum Noise Level in Decibels at Property Line at the property line is 55 decibels. This performance standard is a project condition.

- 5. **Residential Design Guidelines.** The project was analyzed for consistency with the Residential Design Guidelines to achieve an attractive residential environment. The project complies with the [Residential Guidelines](#) specifically in the following areas:

Chapter 1, Page 9: Building height, mass, and site setbacks should be compatible.

Analysis: The project is primarily surrounded with a mix of one and two story multi-family residential buildings, as well as single-family residential uses to the south and southwest. The project is a three-story townhouse development which provides new tall trees for screening from the adjacent residences as well as consistent setbacks that are consistent with the zoning code.

Additionally, the project provides street improvements that are conditioned below. To help provide connectivity and to relate to the surrounding sites, the project proposed to construct 10' wide detached sidewalk with street trees in the 4' wide park strip along Glen Eyrie project frontage. Construct new City Standard curb and gutter along Glen Eyrie project frontage, close all unused driveway cut(s), remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage. Therefore, the project is consistent with this guideline.

Chapter 1, Page 11: New development should continue the functional, on-site relationships of the surrounding neighborhood.

The project includes front porches that face Glen Eyrie Avenue similar to the existing structures in the surrounding neighborhood. Additionally, open parking is located away from the street, towards the rear of the project, which is characteristic of this neighborhood.

New development in existing neighborhoods should incorporate distinctive architectural characteristics of surrounding development.

The project incorporates materials that are used in the neighborhood including lap siding, and stucco while incorporation modern design elements such as wood slats and metal railings on the balconies and horizontal wood slat fencing. The project colors include muted gray tones. Additionally, the project would provide new landscaping. These features make the project aesthetically pleasing and compatible with the existing neighborhood.

Chapter 10, Page 52: A total of 60 square feet of open space is required per unit is required and 200 square feet of common open space is required.

Analysis: A total of 60 square feet of open space is required per unit and the project provides 60-341 square feet of open space per unit for a total of 5,104 square feet of open space. This is well above the required 1,080 square feet of open space. 3,600 square feet of common open space is required. Pursuant to the Residential Design Guidelines, common open space per unit may be reduced by an area equivalent to the amount of open space in excess of 60

feet. There is an excess private open space of 4,024 square feet of private open space and an additional 1,196 square feet of open space is provided. Therefore, the project provides the required amount of open space.

6. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Pursuant to Section 15303(b) for New Construction of the California Environmental Quality Act (CEQA), the proposed project includes the development of 18 attached residential condominiums units, in an urbanized area, and therefore qualifies for the applicable categorical exemption. A focused initial study with technical reports was prepared to analyze project impacts and support the exemption, and no significant impacts requiring mitigation were found. The noise is limited to the construction period of the project and during the posted construction hours between 7:00 a.m. and 7:00 p.m., Monday to Friday. Additionally, the project is required to adhere to standard environmental conditions pertaining to noise, air quality, erosion, hydrology, and geology during demolition and construction operations and will not have an unacceptable negative affect on neighboring properties.

The project will not cause any negative effect due to storm water runoff, drainage and erosion controls pursuant to the Final Memo issued by the Department of Public Works, dated 4/13/20. As identified in the Department of Parks and Recreation Primary Record dated 11/30/2019, the subject property is not significant to the history or heritage of San Jose and does not meet the criteria for Candidate City Landmark of the California Register of Historic Resources. Additionally, there is a salvage condition in the permit below.

Pursuant to the Traffic Memo dated 4/13/20, the project will meet the vehicle parking requirement and will not result in a significant VMT impact and a determination for a negative declaration can be made with respect to transportation impacts.

7. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.

- a. The site development permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies. As described above, the project is consistent with the General Plan. There are no applicable specific plans and area development policies for the subject site.

Analysis As identified above, the project is consistent with General Plan Policies.

- b. The site development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is subject to the City Council Public Outreach Policy. A Community Meeting was held on Thursday, February 28, 2019 at 6:00 p.m. at the Gardner Community Center at 520 W. Virginia Street and there were approximately 22 people in attendance. The project hearing was noticed at 1,000 feet, and staff was available for questions.

- c. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The project consists of the demolishing of all buildings and structures on site, and the construction of three separate buildings. Access is gained to the buildings via a one-way drive aisle. The buildings are of similar height, architectural style, and materials and colors. Therefore, the project is mutually compatible and aesthetically harmonious.

- d. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The project is compatible and aesthetically harmonious with the surrounding neighborhood as the project is surrounded by a mixed neighborhood of two and three story multi-family buildings as well as single-family residences. The project provides new construction with a modern design while incorporating siding and stucco which is readily found in the existing surrounding neighborhood. Additionally, the project provides muted colors of terracotta, gray, and tan tones which blends well with the neighborhood.

- e. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: Pursuant to Section 15303(b) for New Construction of the California Environmental Quality Act (CEQA), the proposed project includes the development of 18 attached residential condominiums units, in an urbanized area, and is therefore qualifies for a categorical exemption. An initial study and technical reports were prepared to analyze potential construction and operational environmental impacts and support the exemption. No significant impacts to any of the resource areas were found to require mitigation. Additionally, the project is required to conform to standard environmental permit conditions pertaining to air quality, noise, hydrology, geology, and erosion during demolition and construction activities in order to reduce impacts to adjacent properties. The noise is limited to the construction period of the project and during the posted construction hours between 7:00 a.m. and 7:00 p.m., Monday to Friday. The project would increase the impermeability of the site but would not cause any negative effect due to storm water runoff, drainage and erosion controls pursuant to the Final Memo issued by the Department of Public Works, dated 4/13/20. The project proposes 18 attached residential units in an urbanized area and is not expected to be a significant source or odor.

- f. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: There is no outdoor storage proposed, and landscaping is provided along the perimeter and common areas of the site. New landscaping is proposed along Glen Eyrie which would provide improved aesthetics to the street. Trash pickup is proposed at each unit.

- g. Traffic access, pedestrian access and parking are adequate, in that the project is subject to construction of public improvements and sidewalk access.

Analysis: As previously identified, pursuant to the Traffic Memo dated 4/13/20, the project would meet the vehicle parking requirement pursuant to the San Jose Municipal Code. The project would provide a 10' wide detached sidewalk with street trees in the 4' wide park strip along Glen Eyrie project frontage. The site can be accessed from Glen Eyrie, which is fully paved and the site is served with utilities and a determination for a negative declaration can be made with respect to transportation impacts.

8. **Demolition Permit Criteria.** [Chapter 20.80](#) of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Demolition Permit.
- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
 - b. The failure to approve the permit would jeopardize public health, safety or welfare;
 - c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
 - d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
 - e. Both inventoried and non-inventoried Buildings, Sites and districts of historical significance should be preserved to the maximum extent feasible;
 - f. Rehabilitation or reuse of the existing Building would not be feasible; and
 - g. The demolition, removal or relocation of the Building without an approved replacement Building should not have an adverse impact on the surrounding neighborhood.
 - h. The permit applicant has provided evidence that either the existing Building or Structure is not a Multiple Dwelling or Mobilehome Park or that the permit applicant has complied with all relocation obligations under state and local law, including but not limited to the obligations in Chapters 17.20, 17.23 and 20.200 of the Municipal Code.

Analysis: As identified above, the project proposes to demolish all buildings and structure on site including four houses, three garages, a barn, a shed, an accessory buildings and structures, fences, driveways, patios, and deck.

The project provides 18 residential units and adds to the City's overall housing supply which would benefit the public welfare. The project is compatible with the neighborhood as the project is consistent with the General Plan, Zoning Code and Design guidelines as described above.

As identified in the Department of Parks and Recreation Primary Record dated 11/30/2019, the subject property is not significant to the history or heritage of San Jose and does not meet the criteria for Candidate City Landmark of the California Register of Historic Resources. Additionally, there is a salvage condition in the permit below.

No mobile home park or multiple dwelling exists on-site. The proposed project is the redevelopment of the property to provide greater density in new residential buildings. The proposed project would result in the removal of the existing buildings and structures on site.

Additionally, the project would provide construct 10' wide detached sidewalk with street trees in the 4' wide park strip along Glen Eyrie project frontage.

9. **Tree Removal Permit Findings.** [Chapter of 13.32](#) of Title 13 of the San Jose Municipal Code establishes required findings for issuance of a Tree Removal Permit.

- a. That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of this chapter as set forth in [Section 13.32.010](#);

Analysis: One non-ordinance sized tree and nine ordinance sized trees for a total of 10 trees are to be removed. 40 15-gallon or 20 24-inch box tree replacement trees are required and 26 24-inch box trees are to be would be provided, with six of the replacement trees to be native.

Pursuant to the letter dated 1/28/20, the trees to be replaced would result in a greater total number of trees after the project completion. Additionally, none of the trees to be removed are Heritage Trees. In order to meet all of the City's Development Standards, numerous site design constraints have led the site to be laid out in its proposed configuration. These include the required the drive-aisle width, clearance and circulation through the site for fire and trash vehicles, allowable location of parking, location of the buildings due to setbacks and required private open space. As there are trees along the entire street frontage, at least two trees would need to be removed for the driveway entrance/exit to the project. The driveways align in such a way to minimize tree removal. Only two trees along the frontage would be removed of which one is in a poor health per Arborist report on file. The project was designed to protect any trees which are able to remain while still meeting the numerous site layout constraints required by the City's guidelines and standards.

Conditions:

1. **Acceptance of Permit.** Per [Section 20.100.290\(B\)](#) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Special Use and Site Development Permit ("Permit") within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Site Development Permit shall be deemed acceptance of all conditions specified in this Permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of

occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, “64-70 & 80-82 Glen Eyrie Ave” dated, May 18, 2020 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
6. **Demolition Permit.** A demolition permit may be issued for the buildings and structures indicated on the Approved Plans only upon the issuance of a Building Permit for the project. Any modification to this precondition shall require approval of a Major Permit Adjustment. In no case shall this precondition supersede applicable mitigation measures for the project.
7. **Timing of Tree Removals.** Trees that are proposed for removal, as indicated on the Approved Plans, may be removed only upon the issuance of a Building Permit’ for the project. Any modification to this precondition shall require approval of a Major Permit Adjustment. In no case shall this precondition supersede applicable mitigation measures for the project.
8. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
9. **Archeological.** In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be

stopped, the Director of Planning, Building and Code Enforcement shall be notified, and the archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.

In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

10. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
11. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
12. **Noise.** Noise including mechanical equipment such as air conditioning units must be consistent with the noise performance standard of the zoning district as may be amended.
13. **Construction-Related Noise.** Noise minimization measures include, but are not limited to, the following:
 - a. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
 - b. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
 - c. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - d. Prohibit unnecessary idling of internal combustion engines.
 - e. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
 - f. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
 - g. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
 - h. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.

- i. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
 - j. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
 - k. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
14. **Interior Noise Standard for Residential Development.** The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit. The project applicant shall conform with any special building construction techniques requested by the City’s Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.
15. **Performance Standards.** The project must comply with the performance standards as identified in Municipal Code [Section 20.30.700](#).
16. **Setback Areas.** As identified in Municipal Code [Section 20.30.400](#), tankless water heaters and power inverters may project horizontally for a distance of not more than two feet into any setback area.
17. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
18. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
19. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
20. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly-used areas free of litter, trash, cigarette butts, and garbage.
21. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
22. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
23. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
24. **Stormwater Stenciling.** All storm drain inlets and catch basins shall be stenciled with the “NO DUMPING - FLOWS TO BAY,” applied to the top and/or face of the curb next to the storm drain inlet. The development maintenance entity and/or property owner shall ensure that all

storm drain inlet markings located on privately-maintained streets within the property are present and maintained.

25. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance/approved Planned Development Zoning, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
26. **Garage Parking Spaces for Attached Residential Unit Projects.** All garage parking spaces shown on the Approved Plans are to be used only for parking of residential unit vehicles and shall be kept free and clear of all obstructions, as may be amended pursuant to the Municipal Code.
27. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
28. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
29. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends. This includes the staging of vehicles, equipment and construction materials. Exterior generators, water pumps, compressors and idling trucks are not permitted outside of the permitted construction hours. Permittee shall be responsible for educating all contractors and subcontractors of said construction restrictions.
30. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
31. **No Tract Sales Office/Model Homes Approved.** This Permit does not include the approval of a tract sales office/model homes complex. Said use requires a Permit Adjustment approved by the Director of Planning.
32. **Demolition of Buildings on Property Line or within Setback.** The existing structures on the subject site that would otherwise be situated on a proposed property line or cause non-conformance to the required setbacks shall be demolished to the satisfaction of the Chief Building Official prior to the recordation of documents and maps that establish the proposed changes to the location of property lines. A Demolition Permit shall be obtained from the Building Division to demolish the subject structures.
33. **Homeowner's Association and/or Maintenance District.** A Homeowner's Association or Maintenance District shall be established for maintenance of all common areas, including but not limited to, private streets, pedestrian walkways, easements, landscaping, and landscaping in the public right-of-way that is not already in a maintenance district for the life of the project. The Permittee shall provide to the Homeowners Association a copy of the Vesting Tentative Map Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans within 30 days of completion of each construction phase.

34. **Conformance with Other Permits.** Approval of the Tentative Map shall automatically expire with respect to any portion of the lands covered by such Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.
35. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. H18-047, has expired and all appeals have been exhausted.
36. **Covenant of Easements.** Prior to recordation of the Final Map, the shall offer to the City of San José a Covenant of Easement for joint use and emergency access purposes, in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, as shown on the Approved Plan Set. Said easements shall be binding upon, and all benefits shall insure to, all successors in interest to the affected real property.
37. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
38. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
39. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
40. **Replacement Landscaping.** All landscaping removed with the construction of the project shall be replaced with similar landscaping in the immediate area. All landscaped replacement areas shall be automatically irrigated.
41. **Permittee Installed Front Yard Landscaping Required.** Pursuant to the City's Residential Design Guidelines, the Permittee shall provide comprehensive front yard landscaping and irrigation for developments with small lot single-family detached homes with an average lot size of 4,000 square feet or less. Landscaped areas shall be maintained by a Homeowner's Association or similar entity.
42. **Common Area Landscaping.** All landscaping in common areas shall be maintained by the Homeowner's Association or other similar entity for the life of the project.
43. **Common Area Retention.** The common areas must be retained for the life of the project.
44. **Fence Standards.** Fences shall be erected in accordance with the standards established on the Approved Plans. Changes to the approved fencing shall comply with Section 17.24 of the City of San José Municipal Code.
45. **Salvage of Historic Materials.** Surplus historic bricks and other architectural features shall be re-used where feasible in other areas of the project and for repairs within the building.
46. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2016 California Fire Code.

47. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <https://www.sanjoseca.gov/your-government/departments/public-works/development-services/public-works-applications>

- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
- b. **Transportation:** A Local Transportation Analysis (LTA) has been performed for the subject project based on a net 7 a.m. and 7 p.m. peak hour trips. See separate Traffic Memo dated 4/13/20 for additional information. The following conditions shall be implemented:
 - i. Construct two (2) 20-foot driveways along the project frontage. The City standards require the minimum one-way driveway width to be 16 feet.
 - ii. Install red curbs immediately adjacent to the proposed driveways.

48. **Grading/Geology:**

- a. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- b. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- c. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.

49. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

- a. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

- b. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
50. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
51. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
52. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
53. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
54. **Street Improvements:**
- a. Construct 10' wide detached sidewalk with street trees in the 4' wide park strip along Glen Eyrie project frontage.
 - b. Construct new City Standard curb and gutter along Glen Eyrie project frontage.
 - c. Close all unused driveway cut(s).
 - d. Construct two (2) 20' wide City Standard driveways along Glen Eyrie Avenue project frontage.
 - e. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - f. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage.
 - g. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - h. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - i. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
55. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

56. Street Trees:

- a. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
- b. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

57. Private Streets: Per Common Interest Development (CID) Ordinance, the private drive aisle infrastructure improvements shall be designed and constructed in accordance with current CID standards.

58. Green Building Requirements. This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.

59. Building Division Clearance for Issuing Permits. Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, H18-047 shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
- e. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).

f. *Other.* Such other requirements as may be specified by the Chief Building Official.

60. Affordable Housing Impact Fee The development may be subject to the Affordable Housing Impact Fee (AHIF) or subject to the Inclusionary Housing Ordinance (IHO).

If the development is a rental project, the permittee must pay the Affordable Housing Impact Fee prior to the issuance of any building permits, unless an exemption claim has been made and conditionally accepted. Rental developments are developments that do not include the filing of a tentative map, parcel map or other plan intended to allow the separate conveyance of individual residential units or interests.

- a. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this development and any other applicable requirements of the AHIF.
- b. If a development qualifies for a conditional exemption to the AHIF in the approved Plan, the permittee and owner must execute and record an Affordable Housing Agreement with the City prior to the issuance of any building permits.
- c. Permittee's approval is for development of less than 20 qualifying dwelling units, as determined by Housing. Any changes in the number of units or the type of units in the development may result in additional requirements up to and including a requirement to comply with the IHO.
- d. No building permit may be issued until the AHIF is paid. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the AHIF Resolution are met.

If the development is a for-sale project, the permittee must comply with the requirements under IHO.

- a. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this development and any other applicable requirements of the IHO.
- b. If a development requests an IHO exemption in the Plan, the conditions of that exemption shall be complied with through the issuance of the certificate of occupancy.
- c. Permittee's approval is for development of less than 20 qualifying dwelling units, as determined by Housing. Any changes in the number of units or the type of units in the development may result in additional requirements up to and including a requirement to comply with the IHO.
- d. No building permit may be issued until evidence of compliance with the IHO and exemption process. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO are met.

61. Motorcycle Parking. This project shall conform to the motorcycle parking requirements identified on the Zoning Ordinance, as amended. The required spaces shall be provided through a combination of dedicated spaces as shown on the plans and the use of surplus vehicular parking spaces which may serve as motorcycle parking spaces.

62. Street Number Visibility. Street numbers of the buildings shall be easily visible from the street at all times, day and night.

63. Colors and Materials. All building colors and materials are to be those specified on the Approved Plan Set.

64. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
65. **Hazards.** Prior to the demolition of the structure, the applicant shall conduct an asbestos survey and sampling as necessary, in accordance with the National Emissions Standard for Hazardous Air Pollutants. Following such surveys, appropriate mitigation measures for the disposition of any asbestos containing materials shall be implemented to the satisfaction of the Director of Planning, Building, and Code Enforcement.
66. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
67. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
68. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
69. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and/or the Exception to the Outdoor Lighting Policies shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
70. **Mechanical Equipment.** No roof-mounted equipment is approved with this permit. All new roof mounted mechanical equipment shall be screened from view and will require a permit adjustment.
71. **Generators.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
72. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner.
73. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set.
74. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
75. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
76. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **27th day of May, 2020.**

Rosalynn Hughey, Director
Planning, Building, and Code Enforcement

Deputy

DRAFT